

The Honorable Jamal Whitehead

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSHUA A. DIEMERT, an individual,

Plaintiff,

v.

THE CITY OF SEATTLE, a municipal  
corporation,

Defendant.

No. 2:22-CV-01640-JNW

**STIPULATED MOTION AND ORDER  
TO EXTEND DEADLINE TO FILE  
DISPOSITIVE MOTIONS AND  
MOTIONS CHALLENGING EXPERT  
TESTIMONY**

Submitted: July 17, 2024

**STIPULATED MOTION**

Plaintiff Joshua A. Diemert (“Plaintiff”) and Defendant The City of Seattle (“Defendant”) jointly move the Court to amend the Order Setting Trial Date and Related Dates (Dkt. No. 49) and extend certain pretrial deadlines as referenced herein.

In support of this Stipulated Motion, the Parties state the following:

1. Plaintiff filed the Complaint in this matter on November 16, 2022. Dkt. 1. Plaintiff filed an Amended Complaint and served Defendant with same on January 19, 2023. Dkt. 10-11.

2. On March 10, 2023, Defendant moved for dismissal of Plaintiff’s claims pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. 16. The Court issued an Order granting in part and denying in part Defendant’s Motion on August 28, 2023. Dkt. 28.

1           3.       The Parties previously stipulated to continue the trial date and other case deadlines.  
2 See Dkt. 48-49. The Court set deadlines of June 12, 2024 for remaining limited discovery; May 31,  
3 2024 for discovery motions; and July 15, 2024 for dispositive motions and motions challenging  
4 expert testimony, as well as a trial date of January 13, 2025. *Id.*

5           4.       On June 14, 2024 the parties submitted a Joint Discovery Motion (the “Motion”)  
6 using the Court’s expedited joint motion procedure pursuant to LCR 37(a)(2). Dkt. No. 50. The  
7 Court heard oral argument on the Motion on July 3, 2024, and on July 9, 2024, the Court issued its  
8 Order Granting in Part and Denying in Part the Motion. Dkt. No. 52. The Court ordered Defendant  
9 to produce certain requested documents by July 30, 2024. *Id.*

10          5.       The Court’s Order on the Motion stated the Court would be willing to consider a  
11 stipulated motion to adjust the case schedule as necessary. *See* Dkt. No. 52 at page 8. The Parties  
12 have conferred and agree that it is necessary to extend the deadlines for dispositive motions and  
13 motions challenging expert testimony, and they have agreed to a deadline of **August 16, 2024** for  
14 both motions.

15          6.       In addition, due in part to the difficulty in scheduling depositions for expert  
16 witnesses and medical providers, the parties have as yet been unable to complete the depositions of  
17 two witnesses, economist Lorraine Barrick and Plaintiff’s treating medical provider Dr. Avila-  
18 Smith. The Parties agree that these depositions may occur after the existing discovery cutoff and  
19 are working to schedule them expeditiously. The Parties agree that any motion challenging Ms.  
20 Barrick’s testimony will be due thirty days after the date of Ms. Barrick’s deposition. The Parties  
21 agree at this time that beyond these two depositions, Defendant’s production of documents pursuant  
22 to the Court’s Order, and any remaining productions pursuant to the Parties’ prior agreements, no  
23 further discovery is warranted, and the discovery period is otherwise closed.

24          7.       This stipulation does not preclude either Party from pursuing additional discovery  
25 should the Party believe it is warranted based upon forthcoming productions; however, no such  
26 further discovery shall be permitted absent agreement between the parties or Court order.  
27

8. The Parties hereby request that the Court issue a revised case schedule extending the deadline to file dispositive motions and motions challenging expert witness testimony (with the exception of Lorraine Barrick) to August 16, 2024, and keeping the remaining case deadlines the same.

STIPULATED this 17th day of July, 2024.

PACIFIC LEGAL FOUNDATION  
*Attorneys for Plaintiff Joshua A. Diemert*  
**\*Electronic signature added per email  
authority on July 17, 2024\***

By /s/ Laura M. D'Agostino

**Wesley P. Hottot, WSBA #47539**  
1425 Broadway, Suite 429  
Seattle, WA 98122  
Telephone: 425.576.0484  
Email: [whottot@pacificlegal.org](mailto:whottot@pacificlegal.org)

**Laura M. D'Agostino**  
*Admitted Pro Hac Vice*  
**Nicholas J. DeBenedetto**  
*Admitted Pro Hac Vice*  
3100 Clarendon Boulevard, Suite 1000  
Arlington, VA 22201  
Telephone: 916.503.9010  
Email: [ldagostino@pacificlegal.org](mailto:ldagostino@pacificlegal.org)  
Email: [NDeBenedetto@pacificlegal.org](mailto:NDeBenedetto@pacificlegal.org)

**Andrew R. Quinio**  
*Admitted Pro Hac Vice*  
**Erin E. Wilcox**  
*Admitted Pro Hac Vice*  
555 Capitol Mall, Suite 1290  
Sacramento, CA 95814  
Telephone: 916.419.7111  
Email: [aquinio@pacificlegal.org](mailto:aquinio@pacificlegal.org)  
Email: [ewilcox@pacificlegal.org](mailto:ewilcox@pacificlegal.org)

DAVIS WRIGHT TREMAINE LLP  
*Attorneys for Defendant The City of Seattle*

By /s/ Victoria M. Slade

**Sheehan Sullivan, WSBA #33189**  
**Victoria M. Slade, WSBA 44597**  
**Darrah N. Hinton, WSBA #53542**  
920 Fifth Avenue, Suite 3300  
Seattle, WA 98104-1610  
Telephone: 206.622.3150  
Email: [sulls@dwt.com](mailto:sulls@dwt.com)  
Email: [vickyslade@dwt.com](mailto:vickyslade@dwt.com)  
Email: [darrahhinton@dwt.com](mailto:darrahhinton@dwt.com)

**ORDER**

The Parties jointly moved the Court for an extension of the deadline to file dispositive motions and motions challenging expert testimony. In accordance with the Parties' agreement, the Court hereby orders the limited extension of the referenced deadline as follows:

| Event  | Revised Date                                 |
|--|--|
| Deadline to file dispositive motions and motions challenging expert testimony. | August 16, 2024                              |
| Deadline to file motion challenging expert testimony of Lorraine Barrick       | 30 days after deposition of Lorraine Barrick |

With the exception of Defendant's production of documents pursuant to the Court's Order on the Parties' Joint Discovery Motion, any remaining agreed production by either Party, and the depositions of Lorraine Barrick and Dr. Avila-Smith, which may be conducted after the discovery cutoff, the other non-expired deadlines as set forth in the Court's May 10, 2024 Order Setting Trial Date and Related Dates shall remain in effect. Dkt. 49.

IT IS SO ORDERED.

Dated this 18th day of July, 2024.



Jamal N. Whitehead  
United States District Judge

**Presented by:**

DAVIS WRIGHT TREMAINE LLP  
*Attorneys for Defendant The City of Seattle*

By /s/ Victoria M. Slade

**Sheehan Sullivan, WSBA #33189**  
**Victoria M. Slade, WSBA 44597**  
**Darrah N. Hinton, WSBA #53542**  
920 Fifth Avenue, Suite 3300  
Seattle, WA 98104-1610  
Telephone: 206.622.3150  
Email: [sulls@dwt.com](mailto:sulls@dwt.com)  
Email: [vickyslade@dwt.com](mailto:vickyslade@dwt.com)  
Email: [darrahhinton@dwt.com](mailto:darrahhinton@dwt.com)

**Stipulated / Approved as to Form:**

PACIFIC LEGAL FOUNDATION  
*Attorneys for Plaintiff Joshua A. Diemert*  
**\*Electronic signature added per email  
authority on July 17, 2024\***

By /s/ Laura M. D'Agostino

**Wesley P. Hottot, WSBA #47539**  
1425 Broadway, Suite 429  
Seattle, WA 98122  
Telephone: 425.576.0484  
Email: [whottot@pacificlegal.org](mailto:whottot@pacificlegal.org)

**Laura M. D'Agostino**  
***Admitted Pro Hac Vice***  
**Nicholas J. DeBenedetto**  
***Admitted Pro Hac Vice***  
3100 Clarendon Boulevard, Suite 1000  
Arlington, VA 22201  
Telephone: 916.503.9010  
Email: [ldagostino@pacificlegal.org](mailto:ldagostino@pacificlegal.org)  
Email: [NDeBenedetto@pacificlegal.org](mailto:NDeBenedetto@pacificlegal.org)

**Andrew R. Quinio**  
***Admitted Pro Hac Vice***  
**Erin E. Wilcox**  
***Admitted Pro Hac Vice***  
555 Capitol Mall, Suite 1290  
Sacramento, CA 95814  
Telephone: 916.419.7111  
Email: [aquinio@pacificlegal.org](mailto:aquinio@pacificlegal.org)  
Email: [ewilcox@pacificlegal.org](mailto:ewilcox@pacificlegal.org)